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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/064,847	08/22/2002	Aldo A. Laghi	1098.37	3128

21901 7590 12/15/2003

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EXAMINER

STEWART, ALVIN J

ART UNIT	PAPER NUMBER
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3738

DATE MAILED: 12/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/064,847	LAGHI, ALDO A.	
	Examiner	Art Unit	
	Alvin J Stewart	3738	<i>AS</i>

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10, 12, 13 and 15-18 is/are allowed.
- 6) ☒ Claim(s) 1, 2, 7-9, 11 and 14 is/are rejected.
- 7) ☒ Claim(s) 3-6 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 November 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

Claim 14 is objected to because of the following informalities: claim 14 is a duplicate claim of claim 9. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 2, 8, 9, 11 and 14 are rejected under 35 U.S.C. 102(e) as being anticipated by Townsend et al US Patent 6,562,075 B2.

Townsend et al discloses a prosthetic foot comprising a sole having an anterior section (20), toe section (3), a posterior section (17) and a heel section (4). The prosthesis comprises an ankle part (6), a transverse parting line (imaginary line close to element 8). The ankle includes an upward bend and a vertically part (see marks in Fig. 3). Finally, the sole comprises longitudinally extending slot dividing the anterior and posterior sections (see Fig. 8).

Regarding claims 8 and 9, see marks made by the Examiner in Fig. 3.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Phillips US Patent 6,254,643 B1 in view of Poggi et al US Patent 4,645,509.

Phillips discloses a prosthetic foot (20) comprising a sole having an anterior section (see marks in Fig. 10), toe section (28), a posterior section (see marks in Fig. 10) and a heel section (40'). The prosthesis comprises an ankle part (26), a transverse parting line (imaginary line below the letter "c"). The ankle includes an upward bend and a vertically part (see marks in Fig. 10). However, Phillips does not disclose a plurality of slots dividing the anterior section of the sole.

Poggi et al discloses a prosthetic foot comprising a sole having a plurality of slots dividing the anterior section of the sole (see Fig. 7 and 7a) for the purpose of improving the stability of the foot when traversing uneven surfaces (see col. 8, lines 24-41).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the sole of the Phillips reference with the slots of the Poggi et al reference in order to improve the stability of the foot when traversing uneven surfaces (see col. 8, lines 24-41).

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Phillips US Patent 6,254,643 B1 in view of Poggi et al US Patent 4,645,509 as applied to claim 1 above, and further in view of Townsend et al US Patent 6,562,075 B2.

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Phillips as modify by Poggi et al disclose the invention substantially as claimed. However, Phillips as modify by Poggi et al do not disclose at least one longitudinal extending slot dividing the posterior section of the sole.

Townsend et al teaches a prosthetic foot comprising a sole having at least one longitudinal extending slot for the purpose of creating biplanar motion capability of the heel section of the foot (see col. 6, lines 35-37).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the posterior portion of the sole of the Phillips reference with the posterior slot of the Townsend et al reference in order to create biplanar motion capability of the heel section of the foot.

Allowable Subject Matter

Claims 3-6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 10, 12, 13 and 15-18 are allowed.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alvin J Stewart whose telephone number is 703-305-0277. The examiner can normally be reached on Monday-Friday 7:00AM-5:30PM(1 Friday B-week off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott can be reached on 703-308-2111. The fax phone number for the organization where this application or proceeding is assigned is 703-305-3590.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.

A handwritten signature in black ink, appearing to read 'Alvin Stewart', with a large, sweeping flourish extending to the right.

Alvin Stewart
December 4, 2003.